

made promptly and shall not be withheld for a period of more than 20 days from the date of mailing of such notice unless in the judgment of the port director there are compelling reasons that would warrant such action.

[T.D. 73-175, 38 FR 17477, July 2, 1973, as amended by T.D. 82-224, 47 FR 53728, Nov. 29, 1982; T.D. 93-66, 58 FR 44131, Aug. 19, 1993]

**§ 152.3 Merchandise found not to correspond with invoice description.**

When any merchandise not corresponding with the description given in the invoice is found by the examining officer, duties shall be assessed on the merchandise actually found. If the discrepancy appears conclusively to be the result of a mistake and not of any intent to defraud, no proceedings for forfeiture shall be taken. When the entire shipment does not agree with the invoice and there is no evidence of any intent to defraud, a new entry shall be required and the estimated duty paid on the original entry shall be refunded on liquidation as in the case of a nonimportation. (Sec. 499, 46 Stat. 728, as amended; 19 U.S.C. 1499)

**Subpart B—Classification**

**§ 152.11 Harmonized Tariff Schedule of the United States.**

Merchandise shall be classified in accordance with the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202) as interpreted by administrative and judicial rulings.

[T.D. 73-175, 38 FR 17477, July 2, 1973, as amended by T.D. 89-1, 53 FR 51269, Dec. 21, 1988]

**§ 152.12 Applicable rates of duty.**

Rates of duty shall be based on the detailed instructions in § 141.69 of this chapter, which provides in general that the rates of duty applicable to merchandise shall be those in effect on the date of entry or withdrawal for consumption, except for certain merchandise covered by an entry for immediate transportation or overcarried and returned to the port of entry.

**§ 152.13 Commingling of merchandise.**

(a) *Notice to importer.* The port director shall give written notice to the im-

porter as promptly as possible after any commingling is discovered.

(b) *Highest rate applicable.* Commingled merchandise shall be assessed with duty at the highest rate or rates applicable to any one kind of merchandise included in the commingling, unless:

(1) The quantity and value of each of the kinds so included can be readily ascertained by the usual method of Customs examination or by one or more of the methods specified in General Note 20, Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202), or

(2) The conditions specified in General Note 20, HTSUS, are satisfied.

(c) *Time limit.* To obtain the benefit of General Note 20, HTSUS, the importer shall, within 30 days after the date of mailing or personal delivery of the notice provided for in paragraph (a) of this section, take appropriate action as follows:

(1) File with the port director evidence showing performance of the commercial settlement tests specified in General Note 20, HTSUS; or

(2) Perform the segregation under Customs supervision as specified in General Note 20, HTSUS; or

(3) File with the port director documentary proof which will satisfy him that the merchandise is entitled to the lower rate of duty under General Note 20, HTSUS.

(d) *Extension of time limit.* The 30-day limit for filing the evidence specified in General Note 20 or for performing the segregation specified in General Note 20, Harmonized Tariff Schedule of the United States, may be extended by the port director for additional periods of 30 days each, but not beyond 6 months from the date of mailing or personal delivery of the notice provided for in paragraph (a) of this section, if the importer makes written application for each extension and gives satisfactory reasons for its allowance.

[T.D. 73-175, 38 FR 17477, July 2, 1973, as amended by T.D. 89-1, 53 FR 51270, Dec. 21, 1988; T.D. 95-29, 60 FR 18349, Apr. 11, 1995; T.D. 00-81, 65 FR 68887, Nov. 15, 2000; T.D. 02-14, 67 FR 15099, Mar. 29, 2002]